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(SPACE BELOW FOR FILING STAMP ONLY)

CITY ATTORNEY

2012 FEB 10 AM 9:05

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES  
10

11 OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN;  
12 ELFEGO RODRIGUEZ; AND JAMAL  
CHILDS,

13 Plaintiffs,

14 -VS-

15 BURBANK POLICE DEPARTMENT; CITY  
16 OF BURBANK; AND DOES 1 THROUGH  
100, INCLUSIVE.

17 Defendants.  
18

19 BURBANK POLICE DEPARTMENT; CITY  
20 OF BURBANK,

21 Cross-Complainants,

22 -VS-

23 OMAR RODRIGUEZ, and Individual,

24 Cross- Defendant.  
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CASE NO.: BC 414 602

Assigned to: Hon. Joanne B. O'Donnell, Judge  
Dept. 37

Complaint Filed: May 28, 2009

PLAINTIFF'S SUR-REPLY IN OPPOSITION  
TO DEFENDANT'S MOTION *IN LIMINE* NO.  
3 FOR AN ORDER EXCLUDING EVIDENCE  
OR ARGUMENT RELATING TO ANY  
EVENTS OCCURRING AFTER THE FIRST  
AMENDED COMPLAINT WAS FILED;  
DECLARATION OF STEVEN KARAGIOSIAN

TRIAL:

DATE: February 15, 2012

TIME: 9:00 a.m.

DEPT: 37

**I. ADMISSIONS MADE BY THE BURBANK POLICE DEPARTMENT  
AND OTHER EVENTS THAT OCCURRED AFTER  
THE COMPLAINT WAS FILED ARE ADMISSIBLE**

In Defendant's Motion *in Limine* No. 3, Defendant seeks a blanket order prohibiting the admission of evidence of any event that occurred after the operative complaint was filed. However, it would be error for any court to proclaim that any event occurring after the filing of the complaint could not possibly be relevant to the issues raised therein.

As is set forth in the attached Declaration of Steven Karagiosian, after Plaintiff filed his oppositions to Defendants motions *in limine*, he learned that, after the operative complaint was filed, the current Burbank Police Department brass interviewed him regarding allegations in the complaint, investigated, and made findings regarding the conduct of the department. Such findings constitute party admissions. There is no basis for excluding these findings, or any other admissions by Defendant, simply because they were made after the complaint was filed. Therefore, Defendant's Motion *in Limine* No. 3 should be denied with respect to such investigations and findings.

This is but one example of why it would be inappropriate for this Court to issue a blanket order prohibiting the admission of evidence of *any event* that occurred after the complaint was filed. As another example, some post-filing events are relevant because they demonstrate the intent and motivation of those involved in the pre-filing actions complained of in the complaint. In this action, Plaintiff claims he was harassed by Defendant because of his ethnicity. Defendant's intent and motivation are an element of such a claim. Post-filing events, including those specific events listed in Defendant's motion, are relevant to Defendant's intent and motivation in doing the acts complained of in the complaint.

Post-filing events are also relevant to the issue of the damages suffered by Plaintiff, which have continued after the filing of the complaint. Such events are therefore relevant and admissible.

Defendant correctly states that evidence is relevant if it has a tendency to prove or disprove any disputed fact that is of consequence to an action. It would be impossible for this Court to rule ahead of time that no event occurring after the filing of the complaint could possibly be relevant to the parties' intent and motivations in engaging in the conduct alleged in the complaint; the damages

1 suffered by Plaintiff as a result of those actions; or multiple other issues raised by the complaint.

2 Defendant's argument that it had no opportunity to conduct discovery regarding post filing  
3 events is patently incorrect. Discovery was not limited to pre-filing events; and Defendant conducted  
4 considerable discovery regarding post filing events.

5 In addition to evidence relevant to a party's intent, or showing damages, or constituting  
6 admissions, there are numerous other ways in which post filing events could be relevant to issues  
7 raised in a complaint. Therefore, Defendant's request for a blanket order should be denied, and the  
8 Court should not rule on any particular evidence until it comes up during trial.

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10 **II. CONCLUSION**

11 For all the foregoing reasons, and those set forth in Plaintiff's previously-filed opposition,  
12 Plaintiff respectfully requests that Defendant's Motion *in Limine* No. 3 be denied.

13  
14 DATED: February 9, 2012

LAW OFFICES OF RHEUBAN & GRESEN

15  
16 By: Steven M. Cischke  
17 Steven M. Cischke  
18 Attorneys for Plaintiff, Steve Karagiosian  
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles. I am over the age of eighteen and am not a  
4 party to the within action. My business address is 15910 Ventura Boulevard, Suite 1610, Encino,  
California 91436.

5 On February 9, 2012, I served a copy of the following documents described as:  
6 **PLAINTIFF'S SUR-REPLY IN OPPOSITION TO DEFENDANT'S MOTION *IN LIMINE***  
7 **NO. 3 FOR AN ORDER EXCLUDING EVIDENCE OR ARGUMENT RELATING TO ANY**  
8 **EVENTS OCCURRING AFTER THE FIRST AMENDED COMPLAINT WAS FILED;**  
9 **DECLARATION OF STEVEN KARAGIOSIAN** on the interested parties, through their  
respective attorneys of record in this action by placing a true copy thereof enclosed in sealed  
envelopes addressed as follows:

9 Lawrence A. Michaels  
10 Mitchell Silberberg & Knupp LLP  
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18 **XX BY OVERNIGHT DELIVERY:** I enclosed the documents in an envelope or package  
19 provided by an overnight delivery carrier and addressed as above. I placed the envelope or  
20 package for collection and overnight delivery at an office or a regularly utilized drop box of  
the overnight delivery carrier.

21 **XX BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an  
22 agreement of the parties to accept service by e-mail or electronic transmission, I caused the  
documents to be sent to the person(s) at the e-mail address listed above. My electronic  
23 notification address is [ag@rglawyers.com](mailto:ag@rglawyers.com). I did not receive, within a reasonable time after  
the transmission, any electronic message or other indication that the transmission was  
24 unsuccessful.

25 **XX STATE:** I declare under penalty of perjury under the laws of the State of California that the  
above is true and correct.

26 Executed on February 9, 2012, at Encino, California.

27 Annette Goldstein